



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 10, 1997

H.R. 1967

A bill to amend Title 17, United States Code, to provide that the distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein

As ordered reported by the House Committee on the Judiciary on October 7, 1997

CBO estimates that enacting H.R. 1967 would have no significant impact on the federal budget. Because H.R. 1967 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. In addition, H.R. 1967 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

H.R. 1967 would affirm the Copyright Office's current policy that the distribution of a phonorecord before 1978 does not constitute a publication of the underlying musical composition. That policy is consistent with a 1976 ruling from the Second U.S. Circuit Court of Appeals (*Rosette v. Rainbo Manufacturing Corporation*). In 1995 the Ninth U.S. Circuit Court of Appeals issued a contrary decision (*La Cienega Music Co. v. ZZ Top*), which held that pre-1978 musical compositions distributed on phonorecords constitute published works and must bear the required copyright notice to avoid becoming part of the public domain. Because the bill would confirm the Copyright Office's treatment of pre-1978 musical compositions, enacting H.R. 1967 would not significantly affect the workload or costs of the office.

The CBO staff contact for this estimate is Rachel Forward. The estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.